The opinion in support of the decision being entered today was ***not*** written for publication and is ***not*** binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex Parte JEREMY CHANEY

Appeal No. 2006-2743
Application No. 09/577,257

ON BRIEF

Before KRASS, MACDONALD, and HOMERE, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1, 3-6, 8-11, 13-17, 21-32, 35-42, and 45-49.

The invention is directed to controlling a music player. In particular, a device driver interface is used to provide control and access of a music player's graphical user interfaces to a device driver, allowing the device driver to seamlessly integrate any new control, notification, and windows into the music player that may be required.

Representative independent claim 1 is reproduced as follows:

1. A method of providing a customized graphical interface, the method comprising:

executing a music player that displays a graphical user interface comprising information about music items and that provides a device driver interface;

executing a device driver, related to a music renderer, that indicates a change to the display of the music player's graphical user interface; and

providing via the device driver interface a control object for managing music items; and

displaying the control object in response to an event occurring during the execution or startup of the music player.

The examiner relies on the following references:

Hanson	6,148,346	Nov. 14, 2000 (filed Jun. 20, 1996)
Katz et al. (Katz)	6,356,971	Mar. 12, 2002 (filed Mar. 04, 1999)
Burrows	6,377,530	Apr. 23, 2002 (filed Feb. 12, 1999)

Claims 1, 3-6, 8-11, 13-17, 21-32, 35-42, and 45-49 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner offers Katz and Hanson with regard to claims 1, 3, 4, 6, 8, 9, 11, 13, 14, 16, 17, 21-32, 35-38, and 46-49, adding Burrows with regard to claims 5, 10, 15, 39-42, and 45.

Reference is made to the briefs and answer for the respective positions of appellant and the examiner.

OPINION

At the outset, we note that while this case has been scheduled for an oral hearing as per appellant's request, the panel has reviewed the case and finds a clear reversal to be warranted. Accordingly, it appears that we can dispense with an oral hearing and we trust that appellant will be amenable to this as appellant is not prejudiced in any way.

With regard to independent claims 1, 6, 11, 16, 17, 35, and 46, the examiner contends that Katz discloses the claimed subject matter but for control objects provided via the device driver interface or application programming interface. Thus, the examiner relies on Hanson's teachings, at column 2, lines 11-19 and 40-50, column 5, lines 13-22, and column 8, lines 12-27, of a superior method of using peripheral device drivers to provide peripheral specific graphical control objects to corresponding applications.

The examiner concludes that it would have been obvious to use Hanson's teachings in combination with the music player of Katz, since Katz's music player software may not be compatible with certain types of music renderers and Hanson's dynamic device driver advantageously provides the user a way to manipulate peripheral specific data objects (suggested at column 4, lines 55-57, of Hanson), and "would thus allow Katz's music player to be compatible with an unlimited number of devices in the vast market of music renderers" (answer-page 4).

Appellant argues that while Hanson describes the usage of a GUI by a device driver, it fails to teach or suggest providing a *device driver interface*, as claimed. Appellant contends that menus that are controlled by the Hanson system could be redesigned so that the menu

could be put under the control of an application instead of the device driver, but Hanson does not teach or suggest that control objects can be transmitted via a device driver interface from a device driver to an application.

Specifically with regard to independent claim 46, appellant argues that the claim requires "providing a device driver interface that allows device drivers to modify the graphical user interfaces of the music player," while, in Hanson, the only GUIs that are displayed by the device driver are its own. Thus, Hanson does not transmit control objects from the device driver to another application or vice-versa. Appellant reiterates that in Hanson the graphical objects are provided by the application itself-they are not received from the device driver. Disadvantageously this does not provide for seamless integration of the controls of the device driver with an application, as does the instant invention. Appellant asserts that in Hanson, "there is no suggestion that the device driver can communicate with an application via an application programming interface so as to provide or modify the controls for a graphical user interface in an application" (principal brief-page 10).

We have carefully reviewed the evidence before us, including, inter alia, the arguments of appellant and the examiner, and the disclosures of the applied references, and we conclude therefrom that the examiner has not established a prima facie case of obviousness with regard to the instant claimed subject matter.

Each of independent claims 1, 6, 11, 35, and 46 includes a "device driver interface." That interface enables device drivers to control GUIs of a music player, or to provide control

objects for managing music items or to enable device drivers to modify GUIs of the music player.

While the examiner asserts that Katz discloses an application programming interface, at column 4, lines 58-62 (answer-page 10), the examiner acknowledges that Katz fails to describe the claimed device driver "interface." The examiner relies on Hanson for this limitation, but we agree with appellant that neither Katz nor Hanson describes the claimed device driver "interface."

The many portions of Hanson to which the examiner refers in the rejection appear to describe a device driver employing a GUI and that a device driver may display information and GUIs of its own, but we find nothing therein describing a device driver "interface" or an application programming "interface," as claimed, which provides a control object and there is nothing in Hanson describing a device driver "interface" that permits a device driver to customize a control object, as claimed.

The examiner appears to give "device driver interface," as claimed, a very broad meaning (answer-page 9), although we are unsure, exactly, what that meaning is. The examiner says that the claimed term "pertains to a...(GUI) interfacing with a device driver interface (not necessarily displayed) that incites a change in the GUI" (answer-page 9). Whatever meaning the examiner is asserting, the instant claims still call for a "device driver interface" which allows a device driver to perform certain functions and the examiner must show such a "device driver interface" in the prior art in order to be successful in rejecting the instant claims under 35 U.S.C. § 103. It is our view that the examiner has not successfully

shown a teaching of such a device driver interface in Hanson.

As claimed, the "device driver interface" is separate from the "device driver." As shown in Figure 1, for example, the device driver interface is in the music renderer controller 148 and interfaces the music player 144 with the device drivers 152 for each of different music renderers. As pointed out by appellant, at page 2 of the rely brief, each of the aforementioned independent claims requires that a device driver interface is provided so that a device driver can communicate with a music player and modify a graphical user interface of that music player. We think appellant has it right when he indicates, at page 2 of the reply brief, that the examiner appears to have ignored the claim recitation that the device driver communicates with an application via a device driver interface and the claim recitation that a control object for managing music items is provided from the device driver to the music player via the device driver interface.

Figure 2 of Hanson illustrates the basic components of device driver 42. As can be seen in the figure, GUI objects 52 are part of the device driver so that the GUI objects will be displayed by the device driver and not by the application software 32. Moreover, there is no suggestion in Hanson that the device drivers 42 transmit any of the GUI objects 52 to application software 32, as, for example, via a device driver interface, as claimed by appellant. In fact, there appears to be no communication between device driver 42 and application software 32. Therefore, there cannot be any device driver "interface," as claimed, for providing that communication.

Accordingly, we will not sustain the rejection of claims 1, 6, 11, 35, and 46, or of the claims dependent thereon (3-5, 8-10, 13-15, 21-29, 36-38, and 47-49), and Burrows fails to provide for the deficiencies of Katz and Hanson, under 35 U.S.C. § 103.

With regard to independent claims 16 and 17, these claims are directed to the embodiment that permits a device driver to "rename" control objects that may be used by a user to control the operation of a music renderer.

Appellant argues that the applied references fail to teach or suggest the renaming of a control object, as claimed. The examiner contends that the control objects in Katz must be initially named by the music player, but acknowledges that Katz fails to suggest "renaming" these control objects by the device driver. The examiner points to column 5, lines 14-17, of Hanson for device drivers incorporating GUI objects into the menus of application software. The examiner opines that since a menu is a type of control object, Hanson effectively uses a device driver to rename control objects within an application.

We will not sustain the rejection of independent claims 16 and 17, or of claims 30-32, dependent thereon, under 35 U.S.C. § 103.

We agree with appellant that to the extent the menus of Hanson may be "control objects," Hanson does not suggest a device driver to rename such menus. Claim 16 specifically requires using the music player to initially name the control object. Both claims 16 and 17 require a renaming of the control object via a request from a device driver. We do not find this claim limitation in the applied references.

Finally, with regard to independent claim 39, this claim requires "assigning an object in the graphical interface with a device driver of the portable music player."

The examiner applies Katz and Hanson as above, but acknowledges that neither of these references discloses that the event is a request to transfer a music item from the computer to the portable music player device, so the examiner relies on Burrows, column 4, line 35, through column 5, line 5, for a teaching of a portable music player device that is controllable by a computer interface. The examiner concludes that it would have been obvious to display a graphical interface in response to a request to transfer a music item from a computer to a portable music player device, as in Burrows, in combination with the teachings of Katz and Hanson.

The examiner's explanation totally ignores the "assigning an object..." limitation of claim 39. Since the examiner has failed to convincingly point out where in the cited references is a teaching of "assigning an object in the graphical interface with a device driver of the portable music player," we find no prima facie case of obviousness and we will not sustain the rejection of claim 39, or of claims 40-42, and 45, dependent thereon under 35 U.S.C. § 103.

Since we have not sustained any of the rejections of the claims under 35 U.S.C. § 103, the examiner's decision is reversed.

REVERSED

ERROL A. KRASS
Administrative Patent Judge

ALLEN R. MACDONALD
Administrative Patent Judge

JEAN R. HOMERE
Administrative Patent Judge

BOARD OF PATENT APPEALS AND INTERFERENCES

EK/rwk

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614